



3 September 2004

Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington D.C. 20554

Re: WCB Docket Nos. 01-338, 96-98, 98-147

Dear Ms. Dortch:

On September 2, 2004, the undersigned, together with Julia Strow of Cbeyond, Penny Bewick of New Edge Networks, Susan Jin Davis of Covad, Patti Hogue of Alpheus, Mike Duke of KMC, made separate *ex parte* presentations to the following Commission staff members:

- (1) Jeff Carlisle, Bureau Chief, and Robert Tanner, Legal Counsel, Wireline Competition Bureau
- (2) Jessica Rosenworcel, Office of Commissioner Copps
- (3) Jeremy Miller, Russell Hanser, Marcus Maher, Ian Dilner, Pam Arluk, and Cathy Zima, Competition Policy Division, Wireline Competition Bureau.

The substance of these presentations is set out in the attached document.

Respectfully submitted,

/s / Jason Oxman

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### **ALTS Triennial Review Priorities**

- Facilities-based competition requires reasonable and timely cost-based access to bottleneck network elements. The FCC cannot reasonably expect to encourage facilities-based competition unless it makes this minimum list of unbundled network elements (UNEs) available:
- Loops and subloops, including DS-0, DS-1, DS-3, DSL-capable, linesharing, and dark fiber.
  - A loop facility should be unbundled regardless of the material it is made of; the nature of a bottleneck is not dependent on construction material.
  - Ubiquitous DS-1 loop unbundling is vital to facilities-based competition.
  - Linesharing must be reinstated if UNE-P alternative is eliminated.
  - Dark fiber unbundling promotes facilities deployment and innovation over underutilized legacy loop plant, and is the only facilities-based option for packet service deployment in the wake of FTTP relief.
  - Subloop unbundling is the only means for CLEC packet-based services to reach end users served via hybrid fiber loops.
  - Retail special access services are not substitutes for UNEs.
  - Higher-capacity loops (above DS-3) should be subjected to test that limits findings of non-impairment to only those highest capacity loop facilities to specific buildings that can economically and efficiently be duplicated.
- Interoffice transport, including DS-1 and DS-3 transport and dark fiber. Facilities-based carriers that collocate in ILEC central offices cannot connect their collocated equipment without ILEC transport.
  - ALTS transport test will propose an efficient and easily administered means of determining those offices in which DS-3 and above interoffice transport impairment is not present.
- Loop/Transport combinations, such as enhanced extended links (EELs). Facilities-based carriers must have access to EELs in order to efficiently build out networks, and are impaired without ubiquitous access to DS-1 EELs.
  - Use restrictions, if readopted, must be designed to promote true facilities-based voice and data competition, and must not be overbroad in a way that limits the services that a facilities-based CLEC can offer.
- Operations Support Systems (OSS) necessary for access to UNEs or interconnection. All loop and transport facility information must be available.